

AMENDED IN ASSEMBLY JUNE 13, 2012

AMENDED IN SENATE MAY 25, 2012

AMENDED IN SENATE APRIL 11, 2012

AMENDED IN SENATE MARCH 29, 2012

**SENATE BILL**

**No. 1474**

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**Introduced by Senator Hancock  
(Coauthors: Senators DeSaulnier, Leno, and Pavley)**

February 24, 2012

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An act to amend Sections 781 and 923 of the Penal Code, relating to grand jury proceedings.

LEGISLATIVE COUNSEL'S DIGEST

SB 1474, as amended, Hancock. Grand jury proceedings: Attorney General: powers and duties.

Existing law authorizes the Attorney General to convene the grand jury to investigate and consider certain criminal matters. The Attorney General is authorized to take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do. Existing law authorizes the Attorney General to impanel a special grand jury to investigate, consider, or issue indictments for specified activities relating to Medi-Cal fraud.

This bill also would authorize the Attorney General to convene a special *statewide* grand jury, as prescribed, for cases involving fraud or theft that occur in more than one county and were conducted by a single defendant or multiple defendants acting in concert.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 781 of the Penal Code is amended to  
2 read:

3     781. Except as provided in Section 923, when a public offense  
4 is committed in part in one jurisdictional territory and in part in  
5 another, or the acts or effects thereof constituting or requisite to  
6 the consummation of the offense occur in two or more jurisdictional  
7 territories, the jurisdiction of the offense is in any competent court  
8 within either jurisdictional territory.

9     SEC. 2. Section 923 of the Penal Code is amended to read:

10    923. (a) Whenever the Attorney General considers that the  
11 public interest requires, he or she may, with or without the  
12 concurrence of the district attorney, direct the grand jury to convene  
13 for the investigation and consideration of those matters of a  
14 criminal nature that he or she desires to submit to it. He or she may  
15 take full charge of the presentation of the matters to the grand jury,  
16 issue subpoenas, prepare indictments, and do all other things  
17 incident thereto to the same extent as the district attorney may do.

18    (b) Whenever the Attorney General considers that the public  
19 interest requires, he or she may, with or without the concurrence  
20 of the district attorney, petition the court to impanel a special grand  
21 jury to investigate, consider, or issue indictments for any of the  
22 activities subject to fine, imprisonment, or asset forfeiture under  
23 Section 14107 of the Welfare and Institutions Code. He or she  
24 may take full charge of the presentation of the matters to the grand  
25 jury, issue subpoenas, prepare indictments, and do all other things  
26 incident thereto to the same extent as the district attorney may do.  
27 If the evidence presented to the grand jury shows the commission  
28 of an offense or offenses for which jurisdiction would be in a  
29 county other than the county where the grand jury is impaneled,  
30 the Attorney General, with or without the concurrence of the  
31 district attorney in the county with jurisdiction over the offense or  
32 offenses, may petition the court to impanel a special grand jury in  
33 that county. Notwithstanding any other law, upon request of the  
34 Attorney General, a grand jury convened by the Attorney General  
35 pursuant to this subdivision may submit confidential information  
36 obtained by that grand jury, including, but not limited to,  
37 documents and testimony, to a second grand jury that has been  
38 impaneled at the request of the Attorney General pursuant to this

subdivision in any other county where venue for an offense or offenses shown by evidence presented to the first grand jury is proper. All confidentiality provisions governing information, testimony, and evidence presented to a grand jury shall be applicable, except as expressly permitted by this subdivision. The Attorney General shall inform the grand jury that transmits confidential information and the grand jury that receives confidential information of any exculpatory evidence, as required by Section 939.71. The grand jury that transmits information to another grand jury shall include the exculpatory evidence disclosed by the Attorney General in the transmission of the confidential information. The Attorney General shall inform both the grand jury transmitting the confidential information and the grand jury receiving that information of their duties under Section 939.7. A special grand jury convened pursuant to this subdivision shall be in addition to the other grand juries authorized by this chapter or Chapter 2 (commencing with Section 893).

(c) Whenever the Attorney General considers that the public interest requires, he or she may, with or without the concurrence of the district attorney, impanel a special *statewide* grand jury to investigate, consider, or issue indictments in *any* matters in which there are ~~multiple~~ *two or more* activities, in which fraud or theft is a material element, that have occurred in more than one county and were conducted either by a single defendant or multiple defendants acting in concert.

(1) This special *statewide* grand jury may be impaneled in the Counties of Fresno, Los Angeles, Sacramento, San Diego, or San Francisco, at the Attorney General's discretion. When impaneling a special *statewide* grand jury pursuant to this subdivision, the Attorney General shall use an existing regularly impaneled grand jury to serve as the special *statewide* grand jury and make arrangements with the grand jury coordinator in the applicable county, or with the presiding judge or whoever is charged with scheduling the grand jury hearings, in order to ensure orderly coordination and use of the grand jurors' time for both regular grand jury duties and special *statewide* grand jury duties. Whenever the Attorney General impanels a special *statewide* grand jury, the prosecuting attorney representing the Attorney General shall inform the special *statewide* grand jury at the outset of the case that the

1 special *statewide* grand jury is acting as a special *statewide* grand  
2 jury with statewide jurisdiction.

3 (2) For special *statewide* grand juries impaneled pursuant to  
4 this subdivision, the Attorney General may issue subpoenas for  
5 documents and witnesses located anywhere in the state in order to  
6 obtain evidence to present to the special *statewide* grand jury. The  
7 special *statewide* grand jury may hear all evidence in the form of  
8 testimony or physical evidence presented to the special *statewide*  
9 grand jury, irrespective of the location of the witness or physical  
10 evidence prior to subpoena. The special *statewide* grand jury  
11 impaneled pursuant to this subdivision may indict a person or  
12 persons with charges for crimes that occurred in counties other  
13 than where the special *statewide* grand jury is impaneled. The  
14 indictment shall then be submitted to the appropriate court in any  
15 of the counties where any of the charges could otherwise have  
16 been properly brought. The court where the indictment is filed  
17 under this subdivision shall have proper jurisdiction over all counts  
18 in the indictment.

19 (3) Notwithstanding Section 944, an indictment found by a  
20 special *statewide* grand jury and endorsed as a true bill by the  
21 special *statewide* grand jury foreperson, may be presented to the  
22 appropriate court, as set forth in paragraph (2), solely by the  
23 prosecutor and within five court days of the endorsement of the  
24 indictment. For indictments presented to the court in this manner,  
25 the prosecutor shall also file with the court or court clerk, at the  
26 time of presenting the indictment, an affidavit signed by the special  
27 *statewide* grand jury foreperson attesting that all the jurors who  
28 voted on the indictment heard all of the evidence presented by the  
29 prosecutor, and that a proper number of jurors voted for the  
30 indictment pursuant to Section 940. The Attorney General's office  
31 shall be responsible for prosecuting an indictment produced by  
32 the special *statewide* grand jury.

33 (4) If a defendant makes a timely and successful challenge to  
34 the Attorney General's right to convene a special *statewide* grand  
35 jury by clearly demonstrating that the charges brought are not  
36 encompassed by this subdivision, the court shall dismiss the  
37 indictment without prejudice to the Attorney General, who may  
38 bring the same or other charges against the defendant at a later  
39 date by way of another special *statewide* grand jury, properly

1 convened, or a regular grand jury, or by any other procedure  
2 available.

3 (5) The provisions of Section 939.71 shall apply to the special  
4 *statewide* grand jury.

5 (6) Unless otherwise set forth in this section, a law applying to  
6 a regular grand jury impaneled pursuant to Section 23 of Article  
7 I of the California Constitution shall apply to a special *statewide*  
8 grand jury unless the application of the law to a special *statewide*  
9 grand jury would substantially interfere with the execution of one  
10 or more of the provisions of this section. If there is substantial  
11 interference, the provision governing the special *statewide* grand  
12 jury will govern.

13 ~~(7) A special grand jury convened pursuant to this subdivision~~  
14 ~~shall be in addition to the other grand juries authorized by this~~  
15 ~~chapter or Chapter 2 (commencing with Section 893).~~

16 (d) Upon certification by the Attorney General, a statement of  
17 the costs directly related to the impanelment and activities of the  
18 grand jury pursuant to subdivisions (b) and (c) from the presiding  
19 judge of the superior court where the grand jury was impaneled  
20 shall be submitted for state reimbursement of the costs to the  
21 county. ~~To be reimbursed, the costs shall be itemized, and be no~~  
22 ~~more than what would be charged to a regularly impaneled grand~~  
23 ~~jury convened by the county pursuant to Section 23 of Article I of~~  
24 ~~the California Constitution, unless an alternative payment~~  
25 ~~arrangement is agreed upon by the county and the Attorney~~  
26 ~~General.~~ *county or courts.*